

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE NO. 1:11cv102

THALIA D. COOPER, et al.,)
)
 Plaintiffs,)
)
 vs.)
)
LISA JOHNSON, et al.,)
)
 Defendants.)

)

ORDER

THIS MATTER is before the Court on the Defendants' Motions to Dismiss [Docs. 18, 24, 33, 41, 51, 54] and the Magistrate Judge's Memorandum and Recommendation [Doc. 62] regarding the disposition of those motions.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider the motions to dismiss and to submit recommendations for their disposition.

On December 30, 2011, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed conclusions of law in support of a recommendation regarding the Defendants' motions. [Doc. 62].

The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation [Doc. 62], the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Defendants' Motions to Dismiss be granted; that the claims asserted against Defendants Lisa Johnson, Transylvania County, Dotti Harris, H. Paul Averette, Gresham Barrett, Lindsey Graham, the U.S. Legislatures, North Carolina, and the Transylvania County District Attorney be dismissed with prejudice; and that the claims against Defendants Scott Peterson, Joy J. Barton, and Larry K. Johnson be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

The Plaintiffs are hereby placed on notice that litigants do not have an absolute and unconditional right of access to the courts in order to prosecute frivolous, malicious, abusive or vexatious motions. Demos v. Keating, 33 F.

App'x 918 (10th Cir. 2002); Tinker v. Hanks, 255 F.3d 444, 445 (7th Cir. 2001); In re Vincent, 105 F.3d 943 (4th Cir. 1997). District courts have inherent power to control the judicial process and to redress conduct which abuses that process. Silvestri v. General Motors Corp., 271 F.3d 583, 590 (4th Cir. 2001); In re Burnley, 988 F.2d 1, 3 (4th Cir. 1992).

The Plaintiffs are hereby warned that future frivolous filings will result in the imposition of a pre-filing review system. Cromer v. Kraft Foods N. Am., Inc., 390 F.3d 812 (4th Cir. 2004); Vestal v. Clinton, 106 F.3d 553 (4th Cir. 1997). If such a system is placed in effect, pleadings presented to the Court which are not made in good faith and which do not contain substance will be summarily dismissed as frivolous. Foley v. Fix, 106 F.3d 556 (4th Cir. 1997); In re Joseph Marion Head, 19 F.3d 1429 (4th Cir. 1994). Thereafter, if such writings persist, the pre-filing system may be modified to include an injunction from filings. See 28 U.S.C. §1651(a); In re Martin-Trigona, 737 F.2d 1254 (2d Cir. 1984).

ORDER

IT IS, THEREFORE, ORDERED that the Magistrate Judge's Memorandum and Recommendation [Doc. 62] is **ACCEPTED**; the

Defendants' Motions to Dismiss [Doc. 18, 24, 33, 41, 51, 54] are **GRANTED**; and the claims asserted against Defendants Lisa Johnson, Transylvania County, Dotti Harris, H. Paul Averette, Gresham Barrett, Lindsey Graham, the U.S. Legislatures, North Carolina, and the Transylvania County District Attorney are **DISMISSED WITH PREJUDICE**.

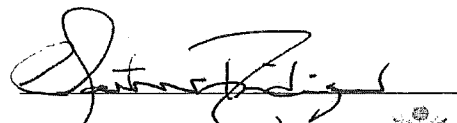
IT IS FURTHER ORDERED that the claims against Defendants Scott Peterson, Joy J. Barton, and Larry K. Johnson are **DISMISSED WITHOUT PREJUDICE** without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that Plaintiffs' Motions for Default Judgment [Docs. 40 and 49] and Plaintiffs' Motion to Dismiss Suit against Defendants Scott Peterson, Joy J. Barton, and Larry K. Johnson [Doc. 50] are **DENIED AS MOOT**.

The Clerk of Court is **DIRECTED** to close this case.

IT IS SO ORDERED.

Signed: January 20, 2012


Martin Reidinger
United States District Judge

